IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 903 of 1992

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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MANUBHAI LAKHMANBHAI PATADIA - Appellant(s)
Versus
BAVANJI BACHUBHAI & 2 - Defendant(s)

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Appearance :
MR YOGESH S LAKHANI for Appellant(s) : 1,
None for Defendant(s) : 1 - 2.
MR RR MARSHALL for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 01/08/2006

ORAL JUDGMENT

1. By way of this appeal the appellant has challenged the judgement and award dated 1st February, 1999 passed by M.A.C. Tribunal (Special), Rajkot District at Gondal in M.A.C.P. No. 120 of 1987 whereby the said claim petition was partly allowed and the original opponents were directed to pay jointly and severally Rs. 41,000/- to the original claimant.

2. The short facts of the case are that on 08.09.1984 at 4.00 O'clock afternoon the appellant was going on his Hero Moped at right side. At that time one Vespa motor cycle was coming from Dhoraji side in full speed and dashed with the appellant's vehicle. As a result of this accident the appellant fell down and sustained serious injuries on the head and eye. He lost his vision from his right eye. Therefore he claimed Rs. 1,00,000/- by way of compensation.

3. Learned advocate appearing for Mr. Lakhani for the contended that tribunal committed an error in granting only Rs. 10,000/- instead of Rs. 48,600/- under the head of future loss of income without considering the decision of the Apex Court in the case of ***"U.P. State Road Transport Corporation and Ors. Vs. Trilok Chandra & Ors." reported in 1996(3)GLR 136*** for calculating the future loss of income.

4. Mr. Marshall, learned advocate for the respondent has contended that the order of the Tribunal is just and proper and on the contrary under some heads excess amount is paid to the appellant which is required to be reduced and therefore the same is justified against the future loss of income.

5. Heard learned counsel and perused the documents placed on record including the award of the Tribunal. The Tribunal has considered the oral and documentary evidence in detail and has assessed the monthly income of the appellant at Rs. 720/-. Even if the same is considered, the Tribunal ought to have taken note of the future loss of income in view of the 15% disability and the decision of the Apex Court in the case of ***"U.P. State Road Transport Corporation (supra)***, as per which the future loss is to be calculated on the basis of average of double the income which comes to Rs. 1080/- in the present case. Looking to the disability of 15%, the per month loss shall come to Rs. 162/- which in turn is Rs. 1944/- per annum.

5.1 Considering the age of the appellant to be 42 years, it would be appropriate to apply a multiplier of 12 years. Hence, the future loss of income shall come to ***Rs.23,328/- (Rs. 1944/- x 12).*** Since the Tribunal has already awarded ***Rs. 10,000/-,*** an additional amount of ***Rs. 13,328/-*** shall be awarded to the appellant under the head of future loss of income.

6. In the premises aforesaid, appeal is partly allowed. The appellant shall be entitled to an additional amount

of ***Rs. 13,328/-*** payable by the respondents with running interest at the rate of ***6%*** per annum from the date of application. The award of the Tribunal is modified accordingly. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*